APPENDIX.

Unauthorized Statements of Supervisory Employee.

Unauthorized statements of Jesse Arthur, foreman in petitioner's plant, for which the petitioner was held responsible by the National Labor Relations Board and by reason of which petitioner was found to be guilty of unfair labor practices, as defined under Section 8 (1 and 2) of the Act, 29 U. S. C. A. 158 (1 and 2) and in violation of Section 7 of the Act, 29 U. S. C. A. 157.

(Testimony of employee, Beecher Carey, Record 89 to 94, inclusive.)

Q. Did you have any conversation with your foreman, which—with your foreman, Jesse Arthur, in relation to the union?

A. Yes. I walked over and asked for a new brush.

Q. When was that, Mr. Carey?

A. About the middle of February.

Q. Of 1940?

A. Yes, sir.

Q. You walked over and asked for a new brush?

A. Yes.

Q. Who did you ask?

A. Jesse Arthur, the foreman.

Q. All right. Proceed with the conversation.

A. He asked me if I received a card to join the union and I said no. He said: "Well, I seen some of the other fellows have them." He said: "Well, they can join if they want to, but I don't think it is going to do them any good."

He said: "Mr. Hobart didn't have to run this shop."

Q. Proceed.

A. That is about all there was said.

Q. Do you recall whether or not Mr. Arthur said anything about raising wages?

A. Oh, yes, he said, if you have to raise wages to a dollar or a dollar and a quarter an hour, that he couldn't do it, he would have to close the shop.

Q. Was that said during the same conversation you had with Mr. Arthur concerning the union?

A. Yes, sir.

Q. Who commenced this talk which you say you had with Foreman Arthur some time in the middle of February after the distribution of Board's Exhibit No. 3 and Board's Exhibit 4 for identification?

A. He started as I walked over after a paint brush.

Q. You walked over after a paint brush without saying anything to him?

A. I asked him for a paint brush.

Q. What did he say?

A. He started to get the paint brush and started the conversation about whether I received a card.

Q. Now your testimony is that Mr. Arthur said the employees could join the union if they wanted to, but what else?

A. No; he said they could join the union if they wanted to, but he didn't think it would do them much good if Mr. Hobart had to pay a dollar or a dollar and a quarter an hour, because he could not afford it, and he would just shut the shop up.

Q. Did he say anything else?

A. No, that is all that was said.

Another employee, Paul Cruikshank, in the paint department at the Hobart Plant, of which Jesse Arthur was foreman, testified (Record 107 to 109, inclusive) as follows:

Q. (By Mr. Shipman:) You say he (Arthur) stood and talked to you for half an hour?

A. 25 minutes.

Q. On the afternoon of February 16th?

A. That is right.

Q. What else did he say?

A. He said that Mr. Hobart could not afford to pay a dollar or a dollar and a quarter an hour for wages.

Q. How did you happen to start this conversation?

A. Jesse Arthur started it.

Q. What was the first thing he said?

A. He just came over to me, and I had started to work, and he said if Mr. Hobart found out who signed or started this union, he was going to lay them off or fire them.

Q. If he found out?
A. Yes.
Q. I thought you said on direct that he had found out?
A. I didn't say he had found out.
Q. And what did you say?
A. I said that is nothing to me.
Q. What else was said?
A. That is all that was said.
Q. That is all that was said?
A. Yes.
Q. What else was said in that conversation?
A. About the dollar or dollar and a quarter an hour.
Q. That is all that was said about that?
A. Yes; that is all that was said.
Q. Nothing else said?
A. That was all.
Q. That was all that was said?
A. Yes.
Q. And it took 25 minutes to do it?
A. Right.

Mr. Shipman: That is all.
Mr. Johnstone: That is all.

By Trial Examiner Raphael:

Q. Was this talk which Mr. Arthur had with you during your working hours?
A. Yes.
Q. How do you know it took 25 minutes?
A. I looked at the clock.
Q. Did you look at the clock when the conversation started?
A. Yes.
Q. Do you remember everything that was said during that conversation?
A. That is about all he said.
Q. Did it take him 25 minutes to make those remarks?
A. He is a pretty slow talker sometimes.
Q. Why did you look at the clock?
A. Because we had been ordered to.

Q. By whom?

A. When Claherty was in here, he told us he was not allowed to interfere with us, and was not supposed to talk to us during working hours about the union.

Q. You might be wrong about the time, might you not?

A. No.

Q. Could you be mistaken when you say that is all you talked about?

A. That is all he said to me and that is all I said to him.

Q. And that took 25 minutes?

A. That is right.

Q. Did Mr. Arthur talk to you continuously for 25 minutes or did he interrupt himself during that time and do any work?

A. No, he didn't interrupt himself, he just pranced around.

Q. Did you interrupt his conversation or attempt at any time to do your work?

A. I tried to work.

Q. And during that 25 minute period he was talking without any interruption from you?

A. He did not talk continuously.

Q. What did he do between the time when he did not talk.

A. Stood there and looked at me.

Q. How long did he stand and look at you off and on?

A. I don't know.

Q. What portion of the 25 minutes was spent by Mr. Arthur in observing you without talking, approximately?

A. About half of it.

Q. And in addition to that you say he speaks slowly?

A. Yes, sir.

Q. Did you say anything to Mr. Arthur at all while he talked to you?

A. Except I told him it was nothing to me.

Q. Is that the only thing you said to him?

A. That is all.

Q. How did the conversation end?

A. Well, about the dollar to a dollar and a quarter an hour, he said that Hobart would not pay that, and I said, "Well, that is nothing to me."

Q. And that was the end of the conversation, was it?

A. Yes, sir.

JESSE ARTHUR, the foreman, testified (R. 116, 119, 120), as follows:

A. I might have said that Hobart could not afford to pay a dollar an hour.

Q. That is even if you didn't know if Mr. Hobart could not pay, you might have said that Mr. Hobart cannot pay a dollar or a dollar and a quarter an hour?

A. Yes.

Q. Is that correct?

A. That is right.

Q. Now, can you return to the time you spoke to Mr. Cruikshank again, and if so, tell me whether or not you did make a statement to Mr. Cruikshank in substance to the effect that Mr. Hobart could not pay a dollar or a dollar and a quarter an hour?

A. I said I don't think probably he could pay that much.

Q. Now, your testimony is that you said to Mr. Cruikshank the following words in substance: "I don't think Mr. Hobart can pay dollar and a quarter".

A. I don't know whether I said it to Mr. Cruikshank or not.

Q. Did you say it to anybody else?

A. Well, I don't just remember.

Q. Would you say that you did say it to somebody else, but not to Mr. Cruikshank?

A. Well, I don't know. There was so much talking going on down there, you know; I don't know, I might have stated it to Mr. Cruikshank.

Q. You might even have stated it to him?

A. Yes.

Q. Do you do a lot of talking to the employees?

A. No, sir.

Q. Are they friends of yours?

A. Yes.

Q. You do talk to them?

A. Yes, sir, about the work.

Q. Do you talk to them about other things besides the work?

A. Well, not particularly.

Q. Some of the employees in your department have worked for or with you for some time, haven't they?

A. Yes, sir.

Q. And you know those men pretty well, don't you?

A. Yes.

Q. And you have talked to them about other things, besides their work, haven't you?

A. Well, yes.

Q. Well, tell me, which is it, have you or have you not?

A. I have.

Q. You talked to them about things besides work?

A. Yes.

Q. That is a natural thing with a man you know for a long time, isn't it?

A. Sure.

Q. Do you know Mr. Beecher Carey?

A. Yes, sir.

Q. Does he work in your department?

A. Yes, sir.

Q. Do you recall having had a conversation with him in the middle of February, 1940?

A. No, sir, I don't. I talk to him, yes, sure, I don't know that it was about the union or anything.

Q. Well, I didn't ask you what the conversation was. You knew that the union was organizing in the middle of February, 1940?

A. Yes.

Q. At that time, according to Mr. Carey, you and he had a conversation in which he said you said to him that they can join the union if they want to. Did you say that to him?

A. Probably I did.

Q. Tell us the conversation?

A. Yes, something about—I says, "Well, anybody that wants to join the union is perfectly welcome". I says, "That's O. K. with me; I have got no jurisdiction over none of them. They are welcome to join the union".

Q. Is that all you said?

A. That is all I said.

Q. Did you tell him at that time that you did not think it would be a good idea, though?

A. No, sir, I didn't because I didn't know.
Q. Did you express your opinion about it?
A. No, sir.
Q. Did you talk to any of the other employees about the union aside from Mr. Carey?
A. No, sir.

CHARLES C. HOBART testified (R. 139) as follows:

Trial Examiner Raphael: Well, about—or along about Christmas of 1939, and the early part of 1940, did you or did you not discuss with any single or a group of foremen the question of the organization among the employees in your plant into a union?
The Witness: I probably did, but I don't remember which ones, or exactly what I would say.

By Trial Examiner Raphael:

Q. You don't recall the conversation?
A. Not definitely.
Q. Did you talk to Mr. Arthur about it?
A. I don't remember of any conversation that was especially along that line.